

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5744 Issuance of writ of restitution; conditions; foreclosure of equitable right of redemption.

Sec. 5744. (1) Subject to the time restrictions of this section, the court entering a judgment for possession in a summary proceeding shall issue a writ commanding the sheriff, or any other officer authorized to serve the process, to restore the plaintiff to, and put the plaintiff in, full possession of the premises.

(2) On conditions determined by the court, a writ of restitution may be issued immediately after the entry of a judgment for possession when any of the following is pleaded and proved, with notice, to the satisfaction of the court:

(a) The premises are subject to inspection and certificate of compliance under the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, and the certificate or temporary certificate has not been issued and the premises have been ordered vacated.

(b) Forcible entry was made contrary to law.

(c) Entry was made peaceably but possession is unlawfully held by force.

(d) The defendant came into possession by trespass without color of title or other possessory interest.

(e) The tenant, willfully or negligently, is causing a serious and continuing health hazard to exist on the premises or is causing extensive and continuing injury to the premises and is neglecting or refusing either to deliver up possession after demand or to substantially restore or repair the premises.

(f) The action is an action to which section 5714(1)(b) applies.

(3) When a judgment for possession is based upon the forfeiture of an executory contract for the purchase of the premises, a writ of restitution shall not be issued until the expiration of 90 days after the entry of judgment for possession if less than 50% of the purchase price has been paid or until the expiration of 6 months after the entry of judgment for possession if 50% or more of the purchase price has been paid.

(4) In all cases not controlled by subsection (2) or (3), a writ of restitution shall not be issued until the expiration of 10 days after the entry of the judgment for possession.

(5) If an appeal is taken or a motion for new trial is filed before the expiration of the period during which a writ of restitution shall not be issued and if a bond to stay proceedings is filed, the period during which the writ shall not be issued shall be tolled until the disposition of the appeal or motion for new trial is final.

(6) When a judgment for possession is for nonpayment of money due under a tenancy or for nonpayment of money required to be paid under or any other material breach of an executory contract for purchase of the premises, the writ of restitution shall not issue if, within the time provided, the amount stated in the judgment, together with the taxed costs, is paid to the plaintiff and other material breaches of the executory contract for purchase of the premises are cured.

(7) Issuance of a writ of restitution following entry of a judgment for possession because of the forfeiture of an executory contract for the purchase of the premises forecloses any equitable right of redemption that the purchaser has or could claim in the premises.

History: Add. 1972, Act 120, Eff. July 1, 1972;—Am. 2004, Act 105, Eff. Sept. 1, 2004.